

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 2851 of 2005

Between:

- 1 V. Jogayya Sarma, S/o. Late V. Venkata Rao,
Hyderabad.
- 2 Smt. V. Ramalaxmi W/o. Sri V. Jogayya Sarma
Both are residing in Flat No.404 , 4th floor, Plot No. 15,

Srilaxmi Apartment, Huda Complex,
Saroornagar, Hyderabad.

..... PETITIONERS

AND

- 1 The Sales Officer, Sri Bharathi Cooperative Urban Bank

Limited, Street No.5, Himayatnagar, Hyderabad-20.
- 2 Sri Bharathi Cooperative Urban Bank Limited,

Regd.No. T.A.No.1440, Street No.5,
Himayatnagar, Hyderabad-29, Represented by

its Chief Executive Officer,
- 3 The Divisional Cooperative Officer, Golconda Division Ground

APHB, Building, Exhibition Ground, Nampally, Hyderabad-29.

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of order or direction especially one in the nature of Mandamus compelling the Respondents: (i) to direct the respondents to return the original documents on payment of the due amounts on the account bearing No. D1-362 of the second Respondent bank; (ii) to declare the notice in form No.7 dated 4-2-2005 issued by the first respondent is illegal, arbitrary and without jurisdiction; and (iii) to

pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.C.N.MOORTY

Counsel for the Respondents: MR.T.A.KUMAR

The Court at the stage of admission made the following

THE HONOURABLE SRI JUSTICE D.S.R.VARMA

W.P.NO.2851 OF 2005

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ORAL ORDER:

Heard both sides.

2. The whole grievance of the petitioners is that the respondents are not returning the documents kept in the custody of the second respondent despite their willingness to repay the entire amount as demanded.

3. The fact remains that the amount to be repaid by the petitioners was not actually repaid. Till such repayment is not actually made, the second respondent-bank is entitled to withhold the documents of the petitioners.

4. It is needless to mention that the moment the amount is paid to the satisfaction of the second respondent-bank, the documents under mortgage or pledged with the second respondent-bank, which belongs to the petitioners, shall be returned without any further delay.

5. With the above direction, the writ petition is disposed of, at the stage of admission. However, there shall be no order as to costs.

D.S.R.VARMA, J

03RD MARCH, 2005

ISN/KRK

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Sales Officer, Sri Bharathi Cooperative Urban Bank

Limited, Street No.5, Himayatnagar, Hyderabad-20.

2. The Chief Executive Officer,

Sri Bharathi Cooperative Urban Bank Limited,

Regd.No. T.A.No.1440, Street No.5,
Himayatnagar, Hyderabad-29,

3 The Divisional Cooperative Officer, Golconda Division Ground

APHB, Building, Exhibition Ground, Nampally, Hyderabad-29.

4 Two CD copies.